

Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference JC0011PCT	FOR FURTHER ACTION	See Form PCT/IPEA/416
International application No. PCT/EP2004/002701	International filing date (day/month/year) 16.03.2004	Priority date (day/month/year) 20.03.2003
International Patent Classification (IPC) or national classification and IPC		
Applicant JOHNSON CONTROLS GMBH		

<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>7</u> sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> (sent to the applicant and to the International Bureau) a total of _____ sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>																									
<p>4. This report contains indications relating to the following items:</p> <table><tr><td><input checked="" type="checkbox"/></td><td>Box No. I</td><td>Basis of the report</td></tr><tr><td><input type="checkbox"/></td><td>Box No. II</td><td>Priority</td></tr><tr><td><input type="checkbox"/></td><td>Box No. III</td><td>Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td></tr><tr><td><input type="checkbox"/></td><td>Box No. IV</td><td>Lack of unity of invention</td></tr><tr><td><input checked="" type="checkbox"/></td><td>Box No. V</td><td>Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td></tr><tr><td><input type="checkbox"/></td><td>Box No. VI</td><td>Certain documents cited</td></tr><tr><td><input type="checkbox"/></td><td>Box No. VII</td><td>Certain defects in the international application</td></tr><tr><td><input type="checkbox"/></td><td>Box No. VIII</td><td>Certain observations on the international application</td></tr></table>		<input checked="" type="checkbox"/>	Box No. I	Basis of the report	<input type="checkbox"/>	Box No. II	Priority	<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	<input type="checkbox"/>	Box No. IV	Lack of unity of invention	<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	<input type="checkbox"/>	Box No. VI	Certain documents cited	<input type="checkbox"/>	Box No. VII	Certain defects in the international application	<input type="checkbox"/>	Box No. VIII	Certain observations on the international application
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Date of submission of the demand	Date of completion of this report																								
Name and mailing address of the IPEA/EP	Authorized officer																								
Facsimile No.	Telephone No.																								

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/002701

Box No. 1

Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language _____, which is the language of a translation furnished for the purposes of:
- ☐ international search (Rule 12.3 and 23.1(b))
- ☐ publication of the international application (Rule 12.4)
- ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the **elements** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:
- ☐ the international application as originally filed/furnished
- ☒ the description:
- pages 1-9 _____ as originally filed/furnished
- pages* _____ received by this Authority on _____
- pages* _____ received by this Authority on _____
- ☒ the claims:
- nos. 1-13 _____ as originally filed/furnished
- nos.* _____ as amended (together with any statement) under Article 19
- nos.* _____ received by this Authority on _____
- nos.* _____ received by this Authority on _____
- ☒ the drawings:
- sheets 1/5-5/5 _____ as originally filed/furnished
- sheets* _____ received by this Authority on _____
- sheets* _____ received by this Authority on _____
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

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Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	9	YES
	Claims	1-8, 10-13	NO
Inventive step (IS)	Claims		YES
	Claims	1-13	NO
Industrial applicability (IA)	Claims	1-13	YES
	Claims		NO

2. Citations and explanations (Rule 70.7)

This report makes reference to the following documents:

D1: US 4 671 573 A
D2: DE 296 13 073 U
D3: US 3 563 602 A
D4: EP 0 916 549 A

1. Independent claim 1

a) D1 (for example) (see, in particular, **figures 8-9E**) can be considered **the closest prior art** with respect to a locking device with spring elements according to the present wording of claim 1. D1 discloses a:

Locking device with spring elements (12), wherein the spring elements (12) can be set at least in a locking position, wherein the locking device can be regulated relative to at least two stay bars (5) having a plurality of recesses (8), wherein the spring elements (12) cooperate with the recesses (8) such that setting the spring elements (12) to their locking position

Box No. V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

produces locking of the locking device relative to the stay bars (5), wherein the spring elements (12) are provided such that the at least two stay bars (5) can be locked by mechanically fixing the spring elements (12) in a central region **and** that the at least two stay bars (5) can be locked by the exertion of a force on the spring elements in a central region (35).

Therefore, the subject matter of independent **claim 1** is **not novel** over D1 and consequently does not meet the requirements of PCT Article 33(2).

b) Claims 11 and 13, which pertain to a head restraint and a use of a head restraint, respectively, therefore appear likewise to be known from D1.

Therefore, the subject matter of independent **claims 11 and 13** is **not novel** over D1 and consequently does not meet the requirements of PCT Article 33(2).

c) The same conclusion also applies with respect to **D2** (for example, figures 5-7, 11 and 12), **D3** (for example, figures 2 and 3) **or D4** (for example, figure 5). The sliding element (13) in D3 may be considered overall to be a spring element.

Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
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2. Dependent claims 2-10 and 12

Dependent claims 2-10 and 12 do not contain any features which, in combination with the features of any claim to which they refer back, meet the PCT requirements for novelty and inventive step. The reasons are:

- a) The additional features of dependent **claims 2-8, 10 and 12** are known from D1. The projections disclosed in claim 7 represent, for example, inclined planes which slide along corresponding actuating regions of the spring elements and displace same. In respect to the position of the spring element, (12) the bevel (15a) on the sliding element (11) described in D1 likewise represents a projection, which produces by its movement a movement by the actuating regions of the spring elements (12) perpendicular thereto
- b) The additional features of dependent **claim 9** appear to be only such that a person skilled in the art routinely applies on the basis of familiar considerations, especially since the resulting advantages are readily foreseeable. The geometric coordination of two elements which slide relative to each other is a step familiar to a person skilled in the art in order to achieve good functionality.

Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
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3. Clarity of the application

- a) The wording in the characterizing part of **claim 1** pertaining to "mechanical fixing of the" or "exertion of force on" spring elements (30) in a central region is unclear or ambiguous in respect of the actual function thereof. Said wording does not make clear that the reference is only to a pretensioned or an unpretensioned spring retained between two stay bars (as described in page 7, line 18 to page 8, line 5).
- b) In **claim 1** a central locking region (35) is disclosed without further details of the position thereof. Consequently, in relation to the remainder of the application the claim is unclear in that otherwise only a position "between two stay bars" is disclosed.
- c) **Claims 4 and 8** disclose only features which would appear to apply to all mechanical springs generally and which lead to lack of clarity since the application is consequently not concise.
- d) The back-reference in **claims 7-9** "according to one of the preceding claims" appears in the present form of the application to be unclear or impossible, since the features characterized therein have not already been completely defined in the said preceding claims.

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
4.	Contrary to PCT Rule 5.1(a)(ii), the description does not cite D1-D4 or indicate the relevant prior art disclosed therein.